S.B. CIVIL MISC. APPEAL NO.808/2006.
[SMT. RATNI & ANR. VS. SANJAY & ORS.]

DATED : 03.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.S.P. Sharma for the appellants.

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By way of this appeal the claimant-appellants seek to challenge the award dated 10.12.2005 made by the Motor Accident Claims Tribunal, Parbatsar in Claim Case No. 11/2005; and seek enhancement over the compensation amount of Rs.2,28,000/- awarded by the Tribunal on account of accidental death of their son Madan lal.

Brief relevant facts are that the deceased Madan Lal and Banwari Lal was riding a Motor Cycle bearing Registration No.MH 14 AD 2510 at Nasik-Pune Highway when they were hit by a tempo mini truck bearing Registration No. MH 14 F-8421 and both of them died because of the injuries sustained in the accident. The trial of two claim cases made by the dependents of the deceased, being Claim Case Nos.11/2005 and 13/2005 was consolidated by the Tribunal and both the claim cases have been decided together by the impugned award.

In Claim Case No.11/2005 the present appellants claimed compensation on account of death of their son Madan

Lal stating his job as furniture Mistri and income at Rs.4,500/- per month. It appears from the memo of appeal and the impugned award that at some places the age of deceased Madan Lal had been stated as 29 years; but his correct age seems to be 19 years as accepted by the Tribunal. The claimants, mother and father of the deceased are said to be 40 years of age.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid tempo mini truck and held the respondents liable for compensation. While taking up quantification of compensation, the Tribunal found that no proper evidence was adduced in relation to the income of the deceased and having regard to all the circumstances accepted his income at Rs.2,400/- per month and observed that the deceased was likely to get married and to divert half of his income to his wife and children and, therefore, took the dependency of the claimants at Rs.1,200/- per month (half of the income of the deceased); and looking to the age of claimants applied a multiplier of 15 and thereby calculated pecuniary loss at Rs.2,16,000/-. The Tribunal also awarded Rs.2,000 as funeral expenses and Rs.10,000/- as non-pecuniary compensation towards loss of love and affection. The Tribunal has, therefore, made an award of Rs.2,28,000/- in favour of the claimants and allowed them interest @ 6%

per annum from the date of filing of the claim application.

Learned counsel appearing for the appellant has contended that looking to the age and income of the deceased and his future prospects, the amount awarded by the Tribunal remains too low and deserves suitable enhancement. Learned counsel also submitted that the Tribunal has seriously erred in awarding interest only @ 6% per annum.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that this appeal remains bereft of substance and deserves to be dismissed. The deceased was 19 years of age and the claimants are his parents. When no definite proof of income of the deceased has been produced; and the deceased has not been shown in any settled employment the Tribunal cannot be said to be in error in taking a reasonable figure of Rs.2,400/- as monthly income of the deceased; and in view of his unmarried statutes, even after providing for future contingencies the learned Tribunal has taken the dependency at Rs.1,200/- i.e. half of the income of the deceased and such estimation cannot be said to on the lower side.

The Tribunal has adopted a multiplier of 15 and looking to over all circumstances of the case and the age of the claimants such choice of multiplier also cannot be said to be improper. Reasonable amount towards funeral expenses and

non-pecuniary losses have also been awarded. The Tribunal has of course awarded interest only @ 6% per annum but in the claim application moved in the month of January 2005 and decided in the month December 2005, such choice of rate of interest cannot be said to be unjustified.

Having regard to the overall facts and circumstances of the case, this Court is clearly of the opinion that the impugned award cannot be said to be too low or grossly inadequate so as to warrant any interference in appeal.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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